

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

05/22/2002

CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

CV 2001-021147

FILED: _____

ERIKA DREVITSON

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8422 N 16TH PL
PHOENIX AZ 85020-0000

v.

REBECCA L JOHNSTON

DANIEL J SIEGEL

DISPOSITION CLERK-CSC
PHX JUSTICE CT-E2
REMAND DESK CV-CCC

MINUTE ENTRY

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This case involves an appeal by Rebecca Johnston from an order of the East Phoenix #2 Justice Court on November 9, 2001, continuing an Injunction Against Harassment with a modification. This Court has considered the record of the proceedings from the East Phoenix #2 Justice Court, the exhibits made part of the record, and the memoranda submitted by the parties. This case has been under advisement since receipt of Appellant's reply memorandum on March 23, 2002.

The first issue raised by Appellant concerns whether sufficient evidence was presented that a series of acts occurred which would warrant the issuance of the Injunction Against

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Harassment. A.R.S. Section 12-1809 provides in Section R that harassment means:

... a series of acts over a period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys, or harasses the person and serves no legitimate purpose.

Appellant contends that the only evidence within the record concerning an act of harassment was the one testified to by Erika Drevitson (formally Gribbenson). This testimony concerned an incident which occurred on October 6, 2000 when Appellant went to her husband's apartment intoxicated and was subsequently arrested.¹ Appellee (Erika Drevitson) also testified that she "would not like her (Appellant) to contact me on my cellphone, which she has done many times or my home phone."² The judge inquired of Appellee how many times Appellant called on her phone. Appellee replied, "I would say once a week."³ No testimony was heard by the judge that these telephone calls to Appellee were harassing, or of any other acts of a harassing nature. Though this Court must view the evidence in a light most favorable to sustaining the trial court's judgment, and this Court should not substitute its judgment for the trial court, an appellate court must reverse when no evidence at all exists to support the trial court's decision.⁴

Finding no evidence of a series of acts of harassment which would support the trial judge's ruling, this Court must reverse the order continuing the Injunction Against Harassment.

¹ R.T. of November 9, 2001 at page 8.

² Id., at page 9.

³ Id.

⁴ State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1998).

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IT IS THEREFORE ORDERED reversing the trial judge's order of November 9, 2001 continuing an Injunction Against Harassment in this case.

IT IS FURTHER ORDERED remanding this matter back to the East Phoenix #2 Justice Court, with instructions to dismiss and vacate the Injunction Against Harassment that it previously issued.